

1

2

3

4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

5

6

7 BONNIE LYNNE STROMBERG,

8 Plaintiff,

9 v.

10 OCWEN LOAN SERVICING, LLC, et al.,

11 Defendants.

Case No. 15-cv-04719-JST

ORDER TO SHOW CAUSE

Re: ECF No. 182

12

13

14

15

16

17

18

19

The Court has reviewed Defendants' motion to deny class certification as to the Doe Defendants. ECF No. 182. The third amended complaint alleges Doe Defendants 1 through 50 to be "the beneficiaries or assignees of deeds of trusts on real property in California who, like MSPB and Citizens, used Ocwen to service the obligations secured by those deeds of trust, where such obligations were satisfied more than 30 days before the original note, deed of trust, request for a full reconveyance and such other documents as may have been necessary to reconvey the deed of trust were delivered, if at all, to the trustee." ECF No. 117 ¶ 13.

20

21

22

23

24

25

26

27

28

A review of the parties' briefs shows that Plaintiff Bonnie Lynn Stromberg may not have standing to sue Doe Defendants 1 through 50, which means that the Court does not have jurisdiction over her claims against them. "The defense of lack of subject matter jurisdiction cannot be waived, and the court is under a continuing duty to dismiss an action whenever it appears that the court lacks jurisdiction." *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983) (citing Fed. R. Civ. P. 12(h)(3)). If in fact Stromberg does not have standing, the appropriate relief may be simply to dismiss the Doe Defendants from this litigation. *See O'Shea v. Littleton*, 414 U.S. 488, 494 (1974) ("[I]f none of the named plaintiffs purporting to represent a class establishes the requisite of a case or controversy with the defendants, none may seek relief

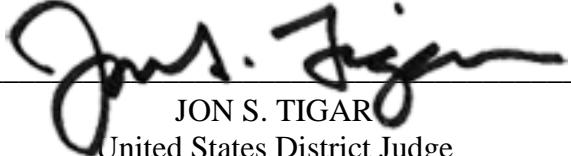
1 on behalf of himself or any other member of the class.”). Dismissal of the Doe Defendants would
2 be alternative relief to that sought by Defendants’ motion.

3 Accordingly, Plaintiff is ordered to show cause as to why the Doe Defendants should
4 not be dismissed from this action. A written response is due by April 3, 2018, at 5:00 p.m. A
5 hearing on this Order to Show Cause is set for April 5, 2018, at 2:00 p.m. at the same time as the
6 hearing on Defendants’ motion.

7 This Order to Show Cause will be vacated if, by April 3, 2018, at 5:00 p.m., Plaintiff
8 dismisses the Doe Defendants or files the potential stipulation discussed by Plaintiff’s counsel at
9 the March 22, 2018 discovery hearing before Magistrate Judge Jacqueline S. Corley. *See* ECF No.
10 212 at 12.

11 **IT IS SO ORDERED.**

12 Dated: March 27, 2018



13 JON S. TIGAR
14 United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28